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1941.

File No. Agri Debtors II/41

Legal **DEPARTMENT**

B **BRANCH**

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Subject:— Rules and Notifications under the Bombay Agreultural Debtors Relief Act, 1939.

(Bom 28 of 1939)

File No. Agri Debtors II/41

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Office of the R.L.A.

The proposal made by the Registrar in his letter at pages 1-3 ante is that a rule should be made under section 63 of the Bombay Agricultural Debtor's Relief Act, 1939, providing that the bonds of the Provincial Land Mortgage Bank may be issued to the Primary Bank concerned for being endorsed over by it to the creditors and that the award may be made in favour of the primary bank at the instance of the Provincial Land Mortgage Bank. The reasons given for the proposal are that the by-laws of the Bombay Provincial Co-operative Land Mortgage Bank do not authorise it to have any direct dealings with individual agriculturists, that the Bank can grant loans to agriculturists only through primary banks and that the business accruing under section 55 of the Bombay Agricultural Debtors' Relief Act will need further examination which will be more thorough if it is made through primary banks.

2. Section 55 of the Bombay Agricultural Debtors' Relief Act, 1939, provides for a special manner of adjusting the debts of a debtor. Under the section, if all the creditors of a debtor agree to the scaling of their debts as provided in the section and to accepting in lieu of the debts due to them bonds issued by the Bombay Provincial Land Mortgage Bank, the Board shall prepare a scheme for the adjustment of the debts accordingly and shall send the ~~adjustment~~ scheme to the said Bank for acceptance; if the Bank agrees to accept the proposal, the Board shall make an award in favour of the Bank directing that the amount scaled down shall be charged on the immoveable property of the debtor and that the bonds of the Bank

shall be issued to the creditors in full satisfaction of the debts due to them from the debtor. Under the section as it stands there does not appear to be any objection to the bonds of the Bombay Provincial Land Mortgage Bank being issued through the Primary Bank concerned after they are endorsed in favour of such Bank. But under the section the award can be made only in favour of the Provincial Bank and a rule providing for the award being made in favour of the Primary Bank will conflict with the provisions of the section and will, therefore, be ultra vires of the Act. The proposal of the Registrar, therefore, is not legally feasible.

3 It may be possible to achieve the object in view by an amendment of the by-laws of the Provincial Bank so as to enable it to deal direct with the debtors against whom an award is made under section 55 of the Act. It may be pointed out that no loans are to be granted by the Bank and all that is necessary is for the Bank to issue the bonds to the creditors and recover the debts from the debtor under the award made in its favour. Under section 55(3), all sums due under the award would be recoverable as arrears of land revenue

4 Another course which may be followed in such cases is that after the Provincial Bank accepts the Board's proposal and has an award passed in its favour, it should assign the said award to the Primary Bank for consideration and issue bonds for the requisite amount in favour of the Primary Bank which in turn should assign or endorse the bonds in favour of the creditors. The creditors will then secure their dues from the Land Mortgage

P.T.O. 3/4

Bank, while the Primary Bank willbe able to recover the award debt from the debtor as an arrear of land revenue. ~~xx~~ If it is decided to follow this course it will be necessary to amend form No.10 appended to the draft Bombay Agricultural Debtor's Relief Rules, 1940.

5. R. D. should, in consultation with the Registrar of Co-operative Societies, examine the suggestions made in paragraphs 3 and 4 above. If R. D. finds that these suggestions are not suitable, R. D. should examine from the administrative point of view, what amendments should be made in the Act and take the necessary orders of Government whether legislation should be undertaken for amending the Act. The papers should be referred to R.L.A. for drafting the necessary Bill after Government decides to undertake such legislation. (Cf. Instruction 25 of Instruction made under the Rules of Business and P. & S. D. Circular No.006/34, dated the 3rd September 1938).

Yd/——— 10/3
Remembrancer of Legal Affairs.

U.R. to R.D., No. 1487, dated 17th February 1941.

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1807.
20/3/41

Offices of the R.L.A.

A revised draft form of authority is appended. As pointed out in R.L.A's opinion No. 1805, dated 31st January 1941 the conditions on which the authority under section 78(1) of the Bombay Agricultural Debtors Relief Act, 1939, shall be granted have been prescribed in rule 37 of the draft rules published in Government Notification, Revenue Department No. 3791/33, dated 26th November 1940. It would, therefore, be sufficient to state in the form of authority that it is granted subject to the conditions prescribed in rule 37. There is however no legal objection to specifying the said conditions in the authority.

2. The authorisation under sub-section (1) of section 78 will have to be published by notification in the Official Gazette. Before the Collectors can act, it will be necessary to delegate to them under section 79 the powers of Government under section 78(1) by notification in the Official Gazette.

M/— 6/3
Remembrancer of Legal Affairs.

U.R. to R.D., No. 2034 dated the 7th March 1941.

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Form.

(See section 78 of the Bombay Agricultural Debtors Relief Act, 1939 and rule 37 of the Bombay Agricultural Debtors Relief Rules, 194)

Authority to individuals, joint stock companies or other associations to advance loans to debtors.

No. In exercise of the powers conferred by sub-section (1) of section 78 of the Bombay Agricultural Debtors Relief Act, 1939 (Bom.XXVIII of 1939) and delegated to him under Government Notification in the Revenue Department No. dated the 194 the Collector of * is hereby pleased to authorise (hereinafter referred to as the authorised person) to advance loans to debtors in respect of whose debts an adjustment has been made under the said Act.

*Here insert the No. and date of the notification delegating the powers of the Provincial Government under section 78(1) to the Collr. under section 79.

3. This authority shall be in force in the following local areas :-

Here insert the name and address of the individual joint stock company or other association to be authorised.

3. This authority shall remain in force from .....to..... (both days inclusive).

4. This authority is granted subject to the following conditions, namely :-

(1) Purposes for which advances may be made and maximum limits of such advances. The authorised person shall not advance loans to any debtor except for the purpose of financing of crops nor exceeding the maximum limits which the Collector has fixed

in this behalf under rule 32 of the Bombay Agricultural Debtors Relief Rules, 1941 (hereinafter referred to as the said rules).

The authorised person shall not knowingly advance any loan to any debtor who has previously taken a loan from another authorised person unless such previous loan has been fully paid or unless he (the authorised person) agrees to discharge the liability of the debtor in respect of such previous loan.

(ii) Duty of authorised person to maintain and furnish accounts.-

(a) The authorised person shall keep regularly in form No.21 appended to the said rules a separate account of each loan advanced to a debtor:

Provided that where the loans to any debtor are advanced on a current account, the authorised person may keep one account of all transactions relating to such loans.

Explanation.- For the purposes of this clause, the term "current account" includes, in the case of banks, accounts relating to overdrafts, cash credits and pro-note accounts, which are maintained in the form of current accounts.

(b) The authorised person shall, within one month after the expiry of every year, supply every debtor a full and correct statement of accounts signed by him or his agent. Such statement of accounts shall show all transactions entered into during the year and the balance outstanding on

account of each loan on 31st December of that year, and shall contain particulars as in Form No.23 appended to the said rules:

Provided that where the loans are advanced on a current account, it shall be sufficient to furnish particulars of the balance due on the whole of such account on the 31st December. In the case of banks, the requirement of this clause shall be deemed to have been complied with if a full statement of accounts has been supplied to the debtor by means of a pass book or otherwise from time to time throughout the year and intimation is given within one month after the expiry of the year of the amount of the balance remaining due on 31st December of that year.

(c) The statement of accounts shall be furnished to the debtor by registered post and an acknowledgement obtained thereof at the cost of the authorised person.

(iii) Rate and calculation of interest.

(a) The authorised person shall not charge or recover interest at a rate higher than the rate notified by Government under rule 39 of the said rules.

(b) If any repayment is made in respect of a loan, interest on such loan shall be calculated up to the date of such repayment; and if the loan or any part of it is still outstanding, interest shall thereafter be calculated only on the balance of the principal still outstanding.

(iv) Inspection of accounts to be allowed.- The authorised person shall allow such officer as may be appointed in this behalf by Government to inspect the accounts maintained by him.

(v) Penalty for non-compliance with conditions mentioned above. The Collector may in his discretion cancel the authority hereby granted for breach of any of the foregoing conditions or for any other reason.

Date 194

Collector.

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R.T.No.2655
20-3-41.

Submitted,

2. Attention is invited to para.3 of R.L.A's No.2034, dated 7-3-41 (p.iuante) and the preamble of the draft notfn. on p. 21 ante. A draft notn. p.20 ante under s. 70 of the Bombay Agricultural Debtors Relief Act, 1939, is therefore forwarded to the R.L.A. for scrutiny.

3. A revised draft notn. is sent herewith.

Yd/—— 20/3

Subject to D.S., is approved, reply may be as at A above.

S S.

Yd/—— 20/3

D.S. Yd/—— 20/3

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Office of the R.L.A.

A revised draft notification is sent herewith.

Yd/———
For Remembrancer of Legal Affairs.

U.R. to R.D.,No.2065 dated 24th March 1941.

R.K.S. 21/4

Notification

Revenue Department.

Bombay Castle. March 1941.

The Bombay Agricultural Debtors Relief Act, 1939.

No. 3791/33.- In exercise of the powers conferred by section 79 of the Bombay Agricultural Debtors Relief Act, 1939 (Bom. XXVIII of 1939), the Government of Bombay is pleased to delegate to the Collectors the powers exercisable by it under sub-section (1) of section 78 of the said Act.

By order of the Governor of Bombay,

Secretary to Government.

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Office of the R.L.A.

The draft rules at slip C as amended are in order.

2. Rule 2: Clause (ii) of the R.D. draft rule provides for definitions of the expressions "Chairman" and "Vice-Chairman". The definitions included in this rule are in respect of expressions used in the rules. The expression "Vice-Chairman" has not been used anywhere in the rules and it is not, therefore, necessary to include a definition of this expression in the rule. It appears that the intention is to provide who shall be the Chairman and Vice-Chairman for the purposes of the Act and the rules in case of a board which consists of a body or association of persons and of a board which consistsof more than one person. For this purpose, a specific provision is necessary to be made in the rules themselves. The definition of the expressions in clause(ii) may be deleted and a new rule 5 as in the revised draft of rules sent herewith may be inserted. The existing rules 5 to 39 may be renumbered as rules 6 to 40.

3. Original rule 51: The words "or a Mamlatdar" after the words "Second Class Subordinate Judge" inserted by R.D. in this rule have been deleted. The rank of a Mamlatdar is above that of a Mahalkari. It is therefore unnecessary to insert these words in the rule.

4. Original rule 11 and the new form No.1: Attention of the R.D. may be drawn to original rule 21 and original form No.8. The original form No.8 contains the form of summons to be issued both in case of parties to an applicatio and the witnesses. This form is sufficient and it is not necessary to prescribe a separate form as No.1 as suggested by R.D. The words "The notice shall be in form No.1" added by R.D. ~~The words "The notice shall be in form No.1 added~~ by R.D. in the rule and the new form No.1 have, therefore, been ~~x~~ deleted.

5. Original rule 17: Under section 3(39) of the Bombay General Clauses Act, 1904, "person" includes any association or body of individuals. The proper expression to be used in the rule is "person" and not "body".

6. Original rule 37: The expression "other association" in section 78(1) of the Act would include resource societies and scheduled banks. They cannot be exempted from the operation of sections 77 and 78 either by making a rule or by issuing executive instructions.

7. The other changes are made in the rules from the drafting point of view.

sd/— 25/7

Remembrancer of Legal Affairs.

U.D. to R.D. No. 155-L dated the 25th July 1941.

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Office of the R.L.A.

Two revised draft notifications (pp.68-70 post) in place of the Revenue Department draft notification at pp.58-59 ante are sent herewith.

2 Revenue Department draft notification at pp.58-59 ante provides for —

(1) extending the provisions of sections 2 to 86 of the Bombay Agricultural Debtors Relief Act, 1939, to the areas mentioned in the notification,

(2) establishment of Debt Adjustment Boards for these areas with their headquarters and places of office at certain places; and

(3) bringing into force the provisions of the Act referred to in (1) above in these areas on 1st January 1942. The first revised draft notification at p.68 post provides for matters referred to in (1) and (3) above. It may be pointed out that under sub-sections (2) and (3) of section 1 of the Act certain sections out of sections 2 to 86 already extend to and are in force in the whole of the Province of Bombay. These sub-sections provide for extending to and bringing into force in any area by notification only the remaining provisions of the Act. The revised draft notification, therefore, provides for extending and bringing into force such remaining provisions of the Act only. As regards the matters referred to in (2) above, namely the establishment of Debt Adjustment Boards, the Revenue Department draft notification is incomplete. It will be necessary to specify in the notification the personnel of the Board. The second revised draft notification at p.70 post provides accordingly. The Revenue Department should specify in

the notification the persons who will constitute the Boards. Section 4(1) of the Act does not provide for notifying the headquarter stations or places of office of the Boards. There is no other provision in the Act also which requires or provides for notifying of such stations or places. The places of office are to be fixed by Government under rule 9 of the Bombay Agriecultural Debtors Relief Rules, 1941. No statutory notification for this purpose is required. The reference, therefore, to the headquarter stations and places of office has been deleted from the revised draft notification. It is sufficient if executive orders are issued by Government fixing the places of office of such Boards.

For Remembrancer of Legal Affairs.

U.R. to R.D., No. 10074, dated the 24th November 1941.

B.K.S. 24/4.

NOTIFICATION

Revenue Department.

Bombay Castle, November 1941.

The Bombay Agricultural Debtors Relief Act, 1939.

No. In exercise of the powers conferred by sub-sections (2) and (3) of section 1 of the Bombay Agricultural Debtors Relief Act, 1939 (Bom.XXVIII of 1939), the Government of Bombay is pleased to direct that the provisions of sections 4,5, 6,8,9,10,11,12,13,14,15,16,18,21, 22,24, 26,27,28,29,30,35,36,38,39,40,41,42,43,44, 46,48,50,51,53,54,55,56,57,58,59,60,61,62, 64,67,68,69,70,71,73,74,75,78,79,80,81,84, 85 and 86 and sub-section (1) of section 33 of the said Act shall extend to and come into force with effect from the 1st day of January 1942, in the following areas, namely :-

Areas.

(1) Dohad, taluka and Jhalod Mahal, Broach and Panch Mahals district,

(2) Bulsar taluka and Pardi Mahal, Surat district,

(3) Dahanu and [illegible]apur talukas, Thana district,

(4) Nawapur peta and Nandurbar taluka, West Khandesh district,

(5) Khed taluka and Ambegaon peta, Poona district,

(6) Pandharpur and Sangola talukas, Sholapur district,

(7) Indi and Sindgi talukas, Bijapur district,

(8) Navalgund taluka and Nargund peta, Dharwar district.

By order of the Governor of Bombay,

Secretary to Government.

B.K.S. 24/4

NOTIFICATION

Revenue Department.

Bombay Castle, November 1941.

The Bombay Agricultural Debtors Relief Act, 1939.

No. In exercise of the powers conferred by sub-section (1) of section 6 of the Bombay Agricultural Debtors Relief Act, 1939 (Bom.XXVIII of 1939), the Government of Bombay is pleased to establish Debt Adjustment Boards for the areas specified in column 1 of the Schedule annexed hereto consisting of the persons specified opposite thereto in column 2 of the said Schedule.

Schedule

	Area 1	Person constituting the Board. 2.
	(1) Dohad, taluka and Jhalod Mahal, Broach & Panch Mahals district.	
	(2) Bulsar taluka and Pardi Mahal, Surat district.	
	(3) Dahanu and Shahapur talukas, Thana district.	
To be filled in by R.D.	(4) Nowapur peta and Nandurbar taluka, West Khandesh district.	
	(5) Khed taluka and Ambegaon peta, Poona district.	
	(6) Pandharpur and Sangola talukas, Sholapur district.	
	(7) Indi and Sindgi talukas, Bijapur district.	
	(8) Navalgund taluka and Nargund peta, Dharwar district.	

By order of the Governor of Bombay,

Secretary to Government.

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